

"I cannot absolutely put to rest your concern that girls might find themselves in a locker room or dressing room in the presence of a person who expresses or asserts herself as a woman but who still has male genitals..."

Subject: RE: Transgender Law and the Protection of Our Children: common decency

Date: Sun, 28 Oct 2007 12:47:27 -0400

From: Councilmember.Leventhal@montgomerycountymd.gov

To: susan

CC: Amanda.Mihill@montgomerycountymd.gov; Walton.Harris@montgomerycountymd.gov;

Chris.Gillis@montgomerycountymd.gov

Dear Susan:

Thank you for your message. I know that you spoke with Soraia yesterday. I wanted to point out two facts regarding your concern over the possibility of transgendered persons using a women's dressing room or locker room. First, Bill 23-07 does not provide a shield to protect any person who commits a crime in public facility. Thus, any activity that is illegal under Maryland law -- including the "peeping tom" law (Maryland Code, Criminal Law §§ 3-901 and 3-902) that prohibits any person from conducting visual surveillance of an individual in a private place, with or without prurient intent -- remains illegal after the enactment of this bill. Second, the Health and Human Services Committee added language to clarify that public accommodations must be appropriate for the gender that is "publicly and exclusively expressed or asserted" by the person seeking to use the accommodation. In other words, a women's dressing room or locker room may only be used by a person who publicly and exclusively expresses or asserts herself to be female. It may not be used casually by someone who otherwise expresses himself as a male.

I hope these points allay your concerns somewhat. I cannot absolutely put to rest your concern that girls might find themselves in a locker room or dressing room in the presence of a person who expresses or asserts herself as a woman but who still has male genitals, but based on my own sense of the prevalence of that condition in the population, I think the likelihood of that occurring is remote. For the same reason, I do not think it would be cost-effective to build a third category of restroom, dressing room or locker room facilities. I just don't think they would be used much.

Thank you again for writing and please give my best to Bobby.

Regards,
George Leventhal

From: Susan [mailto:susan]

Sent: Fri 10/26/2007 2:00 PM

To: Andrews' Office, Councilmember; Elrich's Office, Councilmember; Ervin's Office, Councilmember; Floreen's Office, Councilmember; Berliner's Office, Councilmember; Knapp's Office, Councilmember; Leventhal's Office, Councilmember; Praisner's Office, Councilmember

Subject: Transgender Law and the Protection of Our Children: common decency

Dear Council Person:

Please do not pass the proposed transgender law. As it stands, it will permit transgenders with male genitals into the women's lockerrooms and restrooms. This is indecent. Spend the money and build transgenders separate facilities. I have a 10 year old daughter who uses the locker room at the Germantown Indoor Pool. She must undress in front of women who she also sees naked as there are no changing rooms there (just bathrooms and showers). Under this law, she could be changing right next to a person with male genitals. A naked person with male genitals. This is not right. This is indecent and immoral. This could also happen, and undoubtedly will happen, in the schools around the county. Please do not do this. Our children deserve protection from our laws.

While I am not in favor of the law insofar as it penalizes employers unjustly, I specifically would at least welcome a compromise which would allow an employer to be able to require a gender neutral dress appearance, particularly for employees who deal with children. For example, I do not believe it would be healthy for kindergartners, who may have no positive male role models, to have a teacher who has a male voice etc. but is dressed as a woman. Permitting a gender neutral appearance would mitigate this.

I also think there should be a roommate exemption for non-owner occupants.

Thank you,

-----Original Message-----

Sent: Friday, October 26, 2007 8:29 AM

To: Mihill, Amanda; Leventhal's Office, Councilmember; Trachtenberg's Office, Councilmember; Praisner's Office, Councilmember; Ervin's Office, Councilmember; councilmember.elrich@montgom

Subject: FW: Should Bill 23-07 legislate shared nudity

October 25, 2007

Re Should Bill 23-07 permit "a biological male who has a female self image use of bathrooms and other similar facilities (health club locker rooms etc?)

Dear County Council:

Should Bill 23-07 permit "a biological male who has a female self image use of bathrooms and other similar facilities (health club locker rooms etc)?
The answer to this question is No.

The County Council should not force or legislate shared nudity.

The federal ENDA1 this year contained an exception for Gender Identity situations involving nudity2 (In fact, the entire gender identity provision has now been dropped).

The office of the county attorney has also stated that without amendment of Bill 23-07 restriction (would be permitted) of bathroom/locker room use based on physical gender."

Despite this or perhaps because of this, the Health and Human Services Committee has recommended to "Amend Bill 23-07 to let a person use facilities (e.g., restrooms and locker rooms) based on the person's gender identity publicly expressed and asserted."³ This would permit "a biological male who has a female self image use of bathrooms and other similar facilities (health club locker rooms etc) otherwise restricted to biological females."

Instead of this bill enabling the half million women and female children of our county to monitor their own privacy as in the past, now courtesy of bill 23-07, they will be met with intimidating statements such as "Challenging someone's gender identity is a form of harassment."

Just who is the County Council trying to protect? The half million women and female children of Montgomery County must be protected. There must be language in bill 2307 explicitly stating that the bill does not entitle

male cross dressers, transvestites or transgenders entry into women's locker rooms, bathrooms, dressing rooms at school, health clubs, public swimming pools etc.

Winston Churchill reminds us of Burke's Dictum "If I cannot have reform without injustice, I will not have reform."

Sincerely,

Ruth M. Jacobs, M.D.
cc Gazette

1Employment Non-Discrimination ACT

2" The "gender identity" provision in the original version of the federal ENDA this year (which has now been dropped) contained an exception for situations involving nudity. Specifically, it said:

3) CERTAIN SHARED FACILITIES- Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later."

3Per Amanda Mihill, Legislative Analyst, Montgomery County Council

4 As I stated in my testimony to the County Council on October 2, 2007

1) There should be language in bill 2307 explicitly stating that the bill does not entitle male transgenders' entry into women's locker rooms, bathrooms, dressing rooms at school, health clubs, public swimming pools etc. The ½ million women and female children of Montgomery County should be protected by the County Council explicitly in this bill on this point.

2) Further concerns about the policy not explicitly protecting women and children's privacy.

a. Any XY male just wanting to visit the woman's bathrooms or locker rooms would by this bills definition be exhibiting "transgender behavior" and could be protected by this bill. (while others could instead call it voyeurism)

b. If you are a female who has had a male inadvertently walk into your bathroom, you don't feel safe.

c. Women's Privacy RIGHTS will be disproportionately affected over men, because there are 3 times more male to female transgenders and thousands more male transvestites including those with transvestic fetishism, male crossdressers, homosexual dressing in drag, and male voyeurs than female. This is a woman's issue.

d. Verification issues are alarming. Instead of this bill enabling the half million women of our county to monitor their own privacy as in the past, now courtesy of bill 23-07 they will be met with intimidating statements such as "Challenging someone's gender identity is a form of harassment."

From: **Leventhal's Office, Councilmember** <Councilmember.Leventhal@montgomerycountymd.gov>
To:
Subject: **RE: Should Bill 23-07 legislate shared nudity**
Date: Thu, 1 Nov 2007 16:30:07 -0400
CC: Moore, Jessica <Jessica.Moore@montgomerycountymd.gov>, Harris, Walton<Walton.Harris@montgomerycountymd.gov>, Gillis, Chris<Chris.Gillis@montgomerycountymd.gov>

Dear Dr Jacobs:

Thank you for your message. I wanted to point out two facts regarding your concern over the possibility of transgendered persons using a women's dressing room or locker room. First, Bill 23-07 does not provide a shield to protect any person who commits a crime in public facility. Thus, any activity that is illegal under Maryland law -- including the "peeping tom" law (Maryland Code, Criminal Law §§ 3-901 and 3-902) that prohibits any person from conducting visual surveillance of an individual in a private place, with or without prurient intent -- remains illegal after the enactment of this bill. Second, the Health and Human Services Committee added language to clarify that public accommodations must be appropriate for the gender that is "publicly and exclusively expressed or asserted" by the person seeking to use the accommodation. In other words, a women's dressing room or locker room may only be used by a person who publicly and exclusively expresses or asserts herself to be female. It may not be used casually by someone who otherwise expresses himself as a male.

I appreciate having the benefit of your views.

Best regards,
George Leventhal
Montgomery County Councilmember